



# Federally Speaking



Number 2

by Barry J. Lipson

**Federally Speaking** is brought to you through the cooperation of the Western Pennsylvania Chapter of the Federal Bar Association (FBA) and the Allegheny County Bar Association (ACBA). Our purpose in bringing you **Federally Speaking** is to keep you abreast of what is happening on the Federal scene, whether it be a landmark US Supreme Court decision, a new Federal regulation that may impact your practice, other Federally related matters, or “heads ups” to CLE opportunities that may prove beneficial to your practicing of Federal Law. *All Western Pennsylvania CLE providers who have a program or programs that relate to Federal practice are invited to advise us as early as possible*, so that we can include mention of them in the **Federal CLE Corkboard**.

**Amnesty, plus** – Do we have a deal for you, announced the **Antitrust Division** of the U. S. Department of Justice, just sign up for Amnesty, Plus. Here’s how it works. If we got you cold in a current investigation and you are negotiating a plea agreement with us in that investigation, then just offer to disclose the existence of a second unrelated conspiracy, and not only will you receive “a substantial additional discount” on your fine for your “participation in the first conspiracy,” but you will “pay no criminal fines,” and none of your “officers, directors, or employees who cooperate will be prosecuted criminally in connection with the second offense.” Indeed, “many of our international cartel investigations have resulted from such spin-offs of ongoing investigations of international cartels,” reported the **DOJ** in a recent “Report on International Cartel Enforcement.”

**THE URGE TO MERGE** -- Effective February 1, 2001, major changes have been made in the **Hart-Scott-Rodino (HSR) Pre-Merger Notification** reporting requirements. Most significantly, as of now the urge to merge, if involving \$50 million or less of assets or voting securities of an acquired person, *need not be reported*. More specifically, the size of transaction threshold has increased to over \$50 million (replacing the prior over \$15 million threshold), and the 15 percent size of transaction threshold has been eliminated. Transactions valued at more than \$200 million are reportable without regard to “size of person,” though the prior size of person test (which generally required one side of the transaction to have sales or assets in excess of \$100 million and the other \$10 million) continues to be applicable to transactions valued at \$200 million or less. Additionally, a three-tiered fee structure has replaced the former uniform filing fee of \$45,000 for each reportable transaction. The fee that the acquiring person most now pay (which is based on the value of the voting securities or assets held as a result of the transaction), will now be: a) \$45,000 for transactions valued at less than \$100 million; b) \$125,000 for transactions valued at \$100 million to less than \$500 million; and c) \$280,000 for transactions valued at \$500 million or more. You got to spend a little more to get a lot more.

**Judicial Erosion** – A well-paid Judiciary is a happy Judiciary, and happy Judges make happier Lawyers. Works for me! Presumably, that's why the national Federal Bar Association and the American Bar Association collaborated in preparing a "White Paper" on "Federal Judicial Pay Erosion: A Report on the Need for Reform," which was recently presented by national FBA President Robert McNew and ABA President Martha Barnett, to **U. S. Supreme Court** Chief Justice William Rehnquist. A copy of the report is available to all happy Judges and Lawyers on the FBA web site at [www.fedbar.org/wp-judpay.htm](http://www.fedbar.org/wp-judpay.htm).

**CIGARS IN THE NEWS AGAIN** -- Did you know that the **FTC** has just announced that "virtually every cigar package and advertisement in the United States" must now clearly and prominently display in capital letters the words "**SURGEON GENERAL WARNING,**" and one of the five following warnings on a rotating basis: "Tobacco Use Increases The Risk Of Infertility, Stillbirth And Low Birth Weight;" "Cigar Smoking Can Cause Cancers Of The Mouth And Throat, Even If You Do Not Inhale;" "Cigar Smoking Can Cause Lung Cancer And Heart Disease;" "Tobacco Smoke Increases The Risk Of Lung Cancer And Heart Disease, Even In Nonsmokers;" and "Cigars Are Not A Safe Alternative To Cigarettes." It has been rumored that an additional warning must be placed on all cigars sold to ex-President Clinton: "Use only as directed!"

**YOU MISSED SOME GOOD ONES!** -- Where were you on March 7, 2001 when the ACBA Federal Court Section hosted a delectable Reception at the Engineers Society for outgoing **U. S. District Court for the Western District of Pennsylvania** Chief Judge Donald E. Ziegler, and incoming Chief Judge D. Brooks Smith? What about earlier when the Federal Bar Association, West Penn Chapter, awarded Judge Smith Honorary FBA Membership at a Reception in his honor at the Duquesne Club; or awarded Chief Judge Ziegler Honorary FBA Membership at a Luncheon in his honor at the Engineers Society (a luncheon at which **U. S. Court of Appeals** Judge Carol Los Mansmann presented him with a "brick" from their now defunct high school)?

**BUT THERE'S MORE TO COME!** -- There's always the annual "Whiskey Rebellion?" Well, there will be again! The FBA is planning to continue this tradition, started by the ACBA Federal Court Section, this Fall. Plan to join us then and choose sides – Revenuer or Rebel! Then too, the FBA has an ongoing series of intimate luncheons for its members with different Federal Judges. So far we have lunched with **U. S. District Court** Chief Judge Ziegler, Judge Donald J. Lee (ask Dave Armstrong about this one), and Judge Donetta W. Ambrose. If you are interested in being added to the invitee list, please contact West Penn President Joe Perry (412/281-4900). Additionally, please keep an eye out for the FBA's announcement of the Annual Federal Lawyer of the Year Award and Federal Judges' Luncheon, at which a different member of the Federal Judiciary presides over each table. The FBA is also planning more Judicial Receptions, perhaps a "Crystal Ball" honoring Chief Judge Smith's elevation to the **U.S. Court of Appeals** .....

**The FEDERAL CLE Corkboard.**

Tues, April 3, 2001--Recent National Labor Relations Act Developments, Gerald Kobell,  
ACBA Lunch & Learn Labor Series\*

Tues, April 10, 2001--What's Up with the US Attorney's Office, Leon Rodriguez,  
FBA LearnAbout™ Monthly Luncheon Series\*\*

Thurs, April 19, 2001--Immigration Law and Procedure, Hon. William Strasser,  
FBA Lunch & Afternoon (12-4 PM) Seminar\*\*

Tues, May 8, 2001--Securities Litigation: What You Need to Know, Alan Steinberg,  
FBA LearnAbout™ Monthly Luncheon Series\*\*

Tues, June 12, 2001--FBA Meets FBI: The Seminar, FBI Special Agent Jack Shea,  
FBA LearnAbout™ Monthly Luncheon Series\*\*

\*ACBA-For information and reservations call Dorie Schnippert at 412-402-6610.

\*\*FBA-For information and reservations call Rick Taylor at 412/566-1626.

*Please send Federal CLE information, any comments and suggestions you may have, and/or requests for information on the Federal Bar Association to: Barry J. Lipson, FBA Third Circuit Vice President, at the Law Firm of Weisman Goldman Bowen & Gross, 420 Grant Building, Pittsburgh, Pennsylvania 15219-2266. (412/566-2520; FAX 412/566-1088; E-Mail blipson@wgbglaw.com).*

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